SUMMARY OF INTERVIEW

Applicants would like to thank the Examiner for the opportunity to discuss this application with Applicants' representatives in a telephone conversation on October 19, 2006. Features of certain embodiments of the invention, the current rejections, and potential claim amendments were discussed.

Exhibits and/or Demonstrations

No exhibits or demonstrations were discussed.

Identification of Claims Discussed

Claims 1 and 11 were discussed.

Identification of Prior Art Discussed

The reference cited by the Examiner in the Office Action mailed August 1, 2006 (namely, U.S. Patent No. 6,447,530 to Ostrovsky et al.) was discussed. The Examiner agreed in the interview that Ostrovsky does not teach or suggest an implantable device being movable between a reduced cross section and an enlarged cross section, said device having a proximal end and a distal end, and wherein said device, when fully unstressed, increases radially in dimension from its proximal end to an apex portion, and then decreases radially in dimension from the apex portion to the distal end.

Proposed Amendments

Various claim amendments were discussed with the Examiner.

Principal Arguments and Other Matters

Applicants submitted that the claims are allowable for reasons discussed in this Response.

Results of Interview

The Examiner indicated a willingness to consider remarks and amendments in a Response to the Office Action consistent with what was discussed in the interview.

REMARKS

Claims 1-17 are currently pending in the application. Claims 1 and 11 has been amended for clarification purposes as noted. New Claims 18-20 have been added.

Rejections of Claims 1-10 under 35 U.S.C. § 102(e)

Claims 1-10 are rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,447,530 to Ostrovsky et al. ("Ostrovsky").

Claim 1 has been amended for clarification to recite, inter alia, "an adjustable device deployment system, for implanting an implantable device within an opening in the body comprising: an implantable device, said device being movable between a reduced cross section and an enlarged cross section, said device having a proximal end and a distal end, and wherein said device, when fully unstressed, increases radially in dimension from its proximal end to an apex portion, and then decreases radially in dimension from the apex portion to the distal end. . ."

Applicants note that proper written description support for this amendment can be found, for example, in Figures 30, 30A, 34A, 34B, [0093], and [0109]. As described in paragraph [0109] of the specification and shown in the aforementioned figures, each support 228 of the device 10 may be biased toward the enlarged orientation, in other words indicating that the enlarged orientation is the unstressed configuration of the device. Figures 30, 30A, 34A, and 34B also show the deployed device in fully unstressed configurations, increasing radially in dimension from its proximal end to an apex portion, and then decreasing radially in dimension from the apex portion to the distal end.

Although Applicants do not agree with the rejections, Claim 1 has been amended herein for clarification purposes, and the amendment is fully supported, as noted above. Applicants respectfully submit that Ostrovsky fails to identically teach, and also fails to suggest, every element of Claim 1, as amended herein. See M.P.E.P. § 2131 (stating that in order to anticipate a claim, a prior art reference must identically teach every element of the claim).

The Examiner found that Ostrovsky teaches an implantable device that, as shown in Fig. 32, "is capable of attaining a configuration having a small diameter at its two ends-204, 212 and rises to a central apex therebetween" (Office Action, p. 2). Applicants note that Fig. 32 does not illustrate the device's implanted, fully unstressed configuration; the configuration noted by the

Examiner between the struts 202 and retraction members 208 is under stress caused by tether pulling on retraction members 208. When fully unstressed and deployed within a blood vessel, Applicants note Ostrovsky's device has criss-crossing struts 202, retraction members 208, and loops 210 as shown in Fig. 29, contrary to the shape recited in amended Claim 1. Therefore, inter alia, because of the distinct shape characteristics of the device recited when fully unstressed, amended Claim 1 is not anticipated by Ostrovsky. We thus request that the Examiner withdraw this rejection. Applicants note that Claims 2-10 depend from Claim 1 and contain all of the limitations thereof in addition to further distinguishing features; thus Applicants submit that these claims are in condition for allowance as well.

Rejection of Claims 11-17 under 35 U.S.C. § 103(a)

The Examiner rejected Claims 11-17 under 35 U.S.C. § 103(a) as being unpatentable over Ostrovsky in view of Brooks et al (U.S. Patent No. 6,346,116 B1) ("Brooks") and Tsugita et al. (U.S. Patent No. 5,911,734) ("Tsugita").

Claim 11 has been amended for clarification to recite, inter alia, "an adjustable device deployment system, for implanting an implantable device within an atrial appendage comprising . . . . a deployment line adapted to extend through the deployment catheter releasably attached to the implantable device, wherein the implantable device is moveable between its reduced and enlarged cross sections by actuation of the deployment line while the implantable device is outside of any catheter."

Applicants note that proper written description support for this amendment can be found, for example, in Figs. 9 and 33, and paragraph [0110] of the disclosure. In one embodiment, actuating the deployment line 240, such as by proximal retraction as described, will cause the distal hub 191 to be drawn toward the proximal hub 222, thereby radially enlarging the cross-sectional area of the occlusion device 10. (see paragraph [0110]). As clearly illustrated in Fig. 33, when the deployment line is actuated, for example, when two hubs 191, 222 are drawn together using the loop 244 as described in paragraph [0110], the device is movable between a reduced cross section and an enlarged cross section while the device is outside of any catheter, including deployment catheter 238 shown in Fig. 33, and trans-septal catheter 81 (shown in Fig. 9 and located proximal relative to deployment catheter 238).

The Examiner found that Ostrovsky discloses the invention as claimed with the exception of the material of the filter having a membrane and the material of the membrane being ePTFE; Tsugita discloses a filter with a membrane; and that it would have been obvious to have placed a membrane on the filter of Ostrovsky. The Examiner further alleges that this provides an effective means to filter out undesirable particles while allowing blood-flow therethrough, and placing the membrane on the proximal face of the filter as taught by Tsugita will allow the interior of the mesh to be directed upstream to collect debris if introduced in a retrograde orientation. Furthermore, Examiner states it would have been obvious, as in Claim 15, to use ePTFE as the filter material as disclosed in Brooks.

Although Applicants do not agree with the rejections, Claim 11 has been amended herein for clarification purposes, and the amendment is fully supported, as noted above. Applicants request that the obviousness rejection be withdrawn because none of the cited references teaches or suggests all of the recited claim limitations of Claim 11, as amended. Furthermore, Applicants submit that one of ordinary skill of the art would have no motivation to produce the claimed features of the present application from either reference cited. See M.P.E.P. § 2143.

Ostrovsky discloses that the steps of the removal process in reverse would provide a method of placing a filter 200 in a vessel, as shown in Figs. 29-35 (col. 10, ll. 49-56). Applicants submit that Ostrovsky's device cannot move from a reduced to an enlarged cross section by actuation of the deployment line while the implantable device is outside of any catheter. Neither Tsugita nor Brooks make up for this deficiency. Therefore, the references cited, even when combined, do not teach or suggest all of the limitations of amended Claim 11.

In light of the above, Applicants assert that Claim 11 is not obvious in view of the prior art references, and respectfully request that the Examiner withdraw this rejection. Applicants also note that Claims 12-17 depend from Claim 11 and contain all of the limitations thereof in addition to further distinguishing features; thus Applicants submit that they are in condition for allowance as well.

New Claims 18-20

Applicants note that proper written description for new Claims 18-20 can be found, for example, at Figs. 9 and 33, and paragraph [0110] of the disclosure. Applicants also submit that

Claims 18-20 are also allowable over the cited references for the reasons noted above directed toward the patentability of Claim 11 as new Claims 18-20 depend from Claim 11 and contain all of the limitations thereof in addition to further distinguishing features.

CONCLUSION

For the reasons presented above, Applicants submit that the present application is in condition for allowance and respectfully request the same. If any issues remain, the Examiner is cordially invited to contact Applicants' representative at the number provided below in order to resolve such issues promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 11/1/06

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